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STATE FOR G/TIP, AF/S  
USAID FOR AFR/SA

E.O. 12958: N/A

TAGS: [KWMN](#) [KCRM](#) [PHUM](#) [ASEC](#) [EAID](#) [ELAB](#) [PREL](#) [SMIG](#) [MI](#)

SUBJECT: INCLE PROPOSAL FOR ANTI-TRAFFICKING IN PERSONS  
PROJECT - MALAWI

REF: A) STATE 221178 B) STATE 226696

¶1. Lilongwe submits the following proposal for funding under INCLE. This proposal is second priority, ranked below a separate ESF-funded proposal that is being submitted septel. Proposal format is keyed to ref A, para 21.

¶A. Establishment of a Regulatory Framework to prohibit trafficking in persons and to punish acts of trafficking in Malawi.

¶B. US Department of Justice working with Malawi Ministry of Justice, Law Commission, Ministry of Gender, National Parliament, and Malawi Police

- US Department of Justice (OPDAT and ICITAP) have particular skills in legislative drafting and capacity building of police and prosecutors. Both OPDAT and ICITAP will be already actively engaged with the key counterpart organizations in Malawi as part of the Millennium Challenge Corporation Threshold Country Plan.
- Ministry of Justice drafts most legislation for the Government of Malawi (GOM) and houses the Department of Public Prosecutions, which has expressed a particular wish for the tool TIP legislation would provide.
- The Law Commission is an independent body, established under the Malawi Constitution to review laws against the Constitution and to propose necessary revisions. The Law Commission also has legal draftspeople.
- The Ministry of Gender is a technical lead ministry on anti-trafficking in Malawi
- Malawi police are often on the front line of discovering and investigating TIP. With the passage of legislation, they will be most effective on the front lines of implementation if they are adequately trained.

¶C. 18 months. This is a new project.

¶D. Description

Objective

The objective of the proposed project is to provide assistance to the Government of Malawi in its efforts to formulate, pass, and implement a best-practices law which will prohibit, punish, and deter trafficking in persons.

Activities

¶1. Department of Justice will provide technical assistance to the Ministry of Justice and the Law Commission to support drafting and review of anti-human trafficking legislation for Malawi.

¶2. US Department of Justice will provide technical assistance to support the broad understanding of the legislation amongst Members of Parliament, key committees in the Malawi National Assembly, and select civil society organizations to facilitate consideration and passage of the act.

¶3. Department of Justice will provide technical assistance and training to judges, magistrates, lawyers, prosecutors, and police to support their awareness, understanding, and implementation of the act. DOJ will also provide appropriate training to professors at the University of Malawi Chancellor College School of Law.

¶4. A limited amount of material assistance will be provided to assist police and prosecutors have adequate facilities and equipment to meet the special needs of trafficking cases.

Sustainability

This project seeks to enact and support implementation of a law for which there is public support in Malawi and which the Ministry of Justice and law enforcement agencies would welcome. The law is sustainable and political will exists to implement it.

¶E. Justification

Malawi is rated by the US Department of State as a Tier 2 country, meaning that it does not comply with minimum standards for the elimination of trafficking in persons. Malawi is not in Tier 3, because it is making "significant efforts" to bring itself into compliance with minimum standards, but the country is seriously [chQQ\hQu'Qf\)PlwQeTQ>!](#)Qitself into compliance with minimum standards because of its

extreme poverty.

Trafficking in Malawi is poorly documented, but is

characterized by the US Department of State as "a country of origin and transit for men, women and children trafficked for the purposes of forced labor and sexual exploitation." Anecdotal evidence from police, prosecutors, business people, civil society activities, human rights leaders, and the religious communities is so widespread and consistent, that the existence of a trafficking problem appears undeniable. Malawi's lack of anti-trafficking legislation is a distinct impediment to the work of police and prosecutors in punish the crime and assisting victims since they must stretch tenets of the penal code regarding "unlawful carnal relations," forgery or misuse of travel documents. Alternatively, they rely on the constitutional prohibition of slavery and the abuse of children or the Employment Act prohibition to forced labor.

#### **F. Performance Indicators**

1. Best practices Anti-Trafficking in Persons Act is formulated and presented to the National Assembly.

2. Three cases of Trafficking in Persons Cases prosecuted in year following passage of the Act.

3. Malawi able to meet the Trafficking Victims Protection Reauthorization Act of 2003 by providing US Department of State with data on trafficking related investigations, prosecutions, convictions, and sentences.

#### **G. Evaluation Plan**

USAID, working with the US Department of Justice, will facilitate the formation of a task force, comprised of Government of Malawi, National Assembly, and civil society stakeholders, as well as key multilateral counterparts such as UNDP and UNICEF. The task force will meet on a monthly basis to review progress towards the project objective, stated above, and to determine what contributions need/should be made by the stakeholders to promote the legislation and its implementation. The proposed task force will link to the already established inter-ministerial anti-trafficking committee.

#### **H. Budget Breakout**

##### **US Department of Justice (OPDAT)**

Technical Assistance 150 days @ \$400/day	\$60,000
Capacity Building Activities	70,000
Outreach and Dissemination Activities	30,000
Material Assistance	20,000
DSA 150 days @ \$180/day	27,000
Travel	30,000

Subtotal	237,000
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##### **US Department of Justice (ICITAP)**

Technical Assistance 100 days @ \$400/day	40,000
Capacity Building Activities	50,000
Material Assistance	30,000
DSA 100 days @ \$180/day	18,000
Travel	26,000

Subtotal	164,000
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Total	401,000
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#### **I. Type and Amount of Host Government Contribution or other Cost Sharing**

Ministry of Justice will provide office space for OPDAT adviser(s) and Malawi police will provide space for ICITAP advisers.

#### **J. Proposed funding mechanisms**

Participating Agency Program Agreement between USAID and Department of Justice.

#### **K. Embassy point of contract**

Martha Myers, USAID Democracy and Governance Team Leader

#### **L. Other donors**

Very little work on the issue of trafficking is being undertaken in Malawi.

GILMOUR